

## **Remarks**

### **Status of the Application**

Prior to entry of this amendment, claims 30-34, 40 and 44-49 were pending. The final Office Action mailed September 21, 2010 rejected claims 30-34, 40 and 44-49 under § 103(a) as being unpatentable over US 6,169,894 to McCormick et al. ("McCormick"), in view of US 6,246,430 to Peters et al. ("Peters").

This paper amends claims 30 and 40 and adds new claims 50 and 51. No claims have been added or canceled. Hence, after entry of this paper, claims 30-34, 40, and 44-51 will stand pending for examination. Claims 30 and 40 are independent claims.

### **Claim Amendments**

Claim 30 has been amended to recite, "receiving a second request to receive a selected media program from a second wireless handset," "determining whether the second wireless handset is located within the first cell site coverage area," and "transmitting the selected media program to the second wireless handset." Claim 40 has been amended in similar fashion. Support for these amendments can be found throughout the application as filed, including, inter alia, at page 5, line 21 – page 6, line 18 of the specification. Claims 30 and 40 have also been amended formally for conformity with the amendments above.

New claims 50 and 51 have been added. Support for the new claims can be found throughout the application as filed, including, inter alia, at page 5, line 21 – page 6, line 18 of the specification.

### **Rejections under 35 U.S.C. § 103**

#### ***Claims 30-34, 40 and 44-49***

Claims 30-34, 40 and 44-49 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over McCormick, in view of Peters et al. It is submitted that the claim at least as amended, are allowable over the cited combination.

For example, claim 30 recites, inter alia, "receiving a second request to receive a selected media program from a second wireless handset," "determining whether the second wireless handset is located within the first cell site coverage area," and "transmitting the selected media

program to the second wireless handset, based on a determination of whether the second wireless handset is located within the first cell site coverage area." Neither McCormick nor Peters discloses, or even suggests, this combination of features. Peters does not even mention any sort of system involving two different handsets receiving the same media program at all.

For its part, McCormick does disclose sending the same information to two different handsets, but that reference does not disclose, for example, determining whether the two handsets are in the same cell site service area. Instead, McCormick's system assumes that this is the case. In fact, McCormick's system is designed to transmit different information at each cell site (because the information is geographically correlated to each cell site), so McCormick's system would never even receive two requests, from wireless handsets in different cell site service areas, for the same media program. *See* McCormick, col. 4, lines 27-30 ("In accordance with the present invention, the system 100 provides specific information to each mobile unit 140, which is pertinent to a specific geographic region 130, though a corresponding transceiver 120." (emphasis added)); *accord* McCormick, Fig. 1. Thus, not only does McCormick fail even to suggest this functionality, but one skilled in the art would have no reason to modify McCormick to operate in this fashion, because McCormick is specifically designed not to provide the same media program in different cell site service areas.

Thus, claim 30 (and, for at least similar reasons, claim 40) is allowable over the combination of McCormick and Peters. Claims 31-34 and 44-49 are allowable over the same combination at least by virtue of their dependence from allowable base claims.

### New Claims

Claims 50 and 51 are believed to be allowable over McCormick and Peters as well, at least because they depend from claim 30. Claims 50 and 51, however, each recite specific additional functionality missing from both McCormick and Peters.

For example, claim 50 recites transmitting the selected media program to the second wireless handset using an available wireless channel in a second cell site coverage area in which the second wireless handset is located. As noted above, neither McCormick nor Peters discloses or suggests the transmission of the same media program on two different wireless channels in two different coverage areas.

Likewise, neither McCormick nor Peters discloses, or even suggests, the features of claim 51, which requires transmitting the same media program on a second wireless channel in the same cell site coverage area. Instead, McCormick's system employs a single broadcast channel to provide information in a particular coverage area, and it instructs all receiving handsets to tune to that common channel. *See McCormick*, col. 6, lines 37-44.

Thus, claims 50 and 51 are believed to be allowable over the combination of McCormick and Peters, irrespective of the allowability of claim 30, from which they depend.

### Conclusion

Applicant believes that the pending claims are in condition for allowance. If it would be helpful to obtain favorable consideration of this case, the Examiner is encouraged to call and discuss this case with the undersigned.

This paper constitutes a request for any needed extension of time and an authorization to charge all fees therefore to deposit account No. 19-5117, if not otherwise specifically requested. The undersigned hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to be charged to deposit account No. 19-5117.

Respectfully submitted,

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